

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

GNAT BOOTY MUSIC, et al.,

Plaintiffs,

v.

**JAY KAY JAY, INC. and
KATHLEEN A. TARTIVITA,**

Defendants.

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Civil Action No. 06-5522(GEB)

O R D E R

This matter having come before the Court upon Motion by *pro se* Defendant Kathleen A. Tartivita (“Defendant”) for an Extension of Time to File Answer [Docket Entry # 4], returnable February 5, 2007; and Plaintiffs’ Counsel advising the Court via telephone that he would consent to an extension of Defendants’ time to Answer to January 24, 2007; and the Court noting that on December 26, 2006, it granted an extension of time for Defendants to Answer until January 5, 2007. (See Docket Entry # 3); and Defendant stating that she “received a copy of the Order extending the time to answer the complaint to January 5, 2007” (Tartivita Cert. at ¶ 1); and Defendant further stating that “[t]he envelope was postmarked December 29, 2006, but the fact that the post offices were closed on both January 1st and January 2nd (for the funeral of President Ford) resulted in the delivery of the order on the 3rd of January.” Id.; and Defendant further stating that “[t]he defendants need additional time to file an answer and have not yet been able to locate an attorney to handle this case.” Id. at ¶ 4; and Defendant further stating that “[i]t would be impossible to file the answer, counter-claim and third-party complaint in one day.” Id.; and Defendant requesting that “the time to answer be extended by 45 days.” Id. at ¶ 7; and the Court noting that FED. R. CIV. P. 6(b) provides in relevant part that:

When . . . an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order, or (2) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect . . .

(FED. R. CIV. P. 6(b)); and the Court further noting that ordinarily, cases should be tried on the merits; and the Court having reviewed Defendant's written submissions; and the Court having considered the matter pursuant to FED. R. CIV. P. 78; and good cause having been shown;

IT IS on this 10th day of January, 2007,

ORDERED that Defendant's Motion for Extension of Time to File Answer [Docket Entry # 4] is GRANTED; and it is

FURTHER ORDERED that Defendant shall file an Answer no later than **January 24, 2007.**

/s/ John J. Hughes
JOHN J. HUGHES
UNITED STATES MAGISTRATE JUDGE